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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,340	03/12/2004	Doug Wroblewski	0644-032407	6222
28289 7590 07/01/2008 THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219				
EXAMINER KENNY, DANIEL J				
ART UNIT 3633		PAPER NUMBER		
MAIL DATE 07/01/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/799,340

**Applicant(s)**

WROBLEWSKI, DOUG

**Examiner**

DANIEL KENNY

**Art Unit**

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-9, 11-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 11-16 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6, 7, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sondrup (6,269,495).

Sondrup discloses a drain comprising:

**Claim 1** - a drain body (18, 20) defining a drain cavity (22);

a frame (14 and se) having a securable end (se) received by said drain body and an exposed end (ee), said frame being rotatable relative to said drain body for adjusting the position of said frame exposed end;

a clamp (16, 24) for fixing said securable end of said frame to said drain body;  
and

a grate (12) received by said exposed end of said frame, wherein said drain body comprises a ledge (18a) having a sloped surface, said frame securable end slidably engaging said surface of said sloped surface of said ledge when said frame is rotated relative to said drain body.

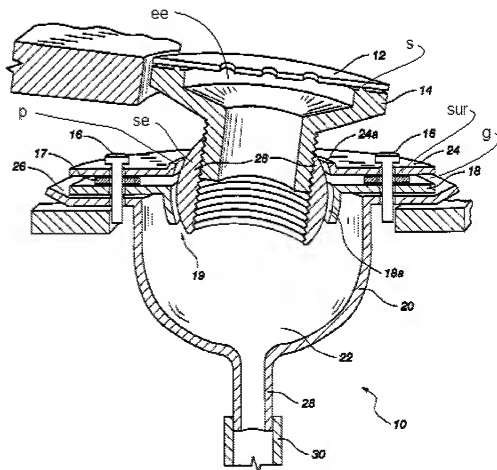
**Claims 2 and 21** – The frame securable end is circular.

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**Claims 3, 4, and 20** – The frame exposed end may have any shape (col. 4, lines 32 and 33).

**Claim 6** – The frame exposed end comprises a seat (s), said grate being fixed to said seat.

**Claim 7** – the clamp comprises a clamp body having a protrusion (p) for clamping said frame securable end to said drain body.



Annotated Fig. 1 (U.S. Pat. 6,269,495)

***Claim Rejections - 35 USC § 103***

Claims 11-16, and 22 - are rejected under 35 U.S.C. 103(a) as being unpatentable over Sondrup.

**Claims 11-16, and 22** - are an obvious method of using the drain of Sondrup.

***Allowable Subject Matter***

Claim 19 is allowed.

Claims 8, 9, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments have been fully considered but they are not persuasive.

Regarding Applicant's argument that Sondrup teaches a completely different drain design than the present invention, Sondrup teaches a very similar type drain compared to that of the present invention because both have a rotatable frame securable end received by a drain body.

Regarding Applicant's argument that the "drain body" of Sondrup as being shown by components (18, 20) is inaccurate because 18 is referred to as a plate, these components can certainly be considered the drain body, as they are the essentially the base onto which the remaining portions of the drain are applied.

Regarding Applicant's argument that the securable end (se), shown in the Office Action, is not a portion of the "frame (14)", such is simply a mistake on the Examiner's part (one that should have been easily understood) in defining the scope of what constituted the frame. Examiner apologizes for this mistake. Again, integrally connected members 14 and 26 are the frame. The frame into which the grate is received, just like the claimed invention.

Regarding Applicant's argument that the "clamp (16, 24)" referred to in the Office Action is actually referred to as a securing bolt (16) and a second plate (24) in the reference, such components are certainly a clamp, as their sole purpose is to clamp the frame to the body.

Regarding Applicant's argument that the "drain body comprises a ledge (18a)" of the Office Action is actually referred to in Sondrup as the lower spherical surface (18a) of the first plate (18) which slidably engages the rounded ring or pivot member (26), not the "frame (14)" as stated by the Examiner, as stated above, and in the rejection, the "lower plate" is part of the body.

Regarding Applicant's argument that the "ledge (18a)" is not sloped as specifically recited in the claims, i.e., it does not meet the generally known definition of slope which is to slant or incline away from a relatively straight surface or line used as a reference, but rather forms a circular surface, inter alia, the ledge is at least sloped with respect to the horizontal surface of the base.

Regarding Applicant's argument that the statement about the method claims being an obvious method of using the drain of Sondrup is provided without any

supporting comments, such comments are unnecessary as the rejected device claims can easily translate to corresponding method steps. This includes claim 22.

Regarding Applicant's argument regarding claim 19, the claim is now allowed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL KENNY whose telephone number is (571)272-9951. The examiner can normally be reached on Monday thru Friday, 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. K./  
Examiner, Art Unit 3633

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633